1941.

File No. Ferries II/41

K

Legal **DEPARTMENT**

B **BRANCH**

Subject:—

Rules and notification under the Bombay Ferries Act 1868

File No. Ferries II/41

1. Sectt. Slip 24 B e.

325-B

C O N T E N T S

Legal Department File No.

Sr. No.	Compilation No.	Object	Pages
1.	R.I.No. 2131 6-3-1941	Rules & Notifications under Bombay Tories Act.	
	R.O.No. 4416 14-8-1941		1-11
2.	R.I.No. 10136 1-11-1941	P.W.D. Govt. Resolution No. 4350	13
	R.O.No.9804 14-11-1941	Notificationed under Indian 2A	15
3.	R.O.No. 10878 17-12-1941	Section 2A	17-18

S.A.K.
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Office of the R.L.A.

A revised draft form of the license is sent herewith.

2.Para. 3(ii) of the P.W.D. office note (p.144 ante):-
Condition 1 of the license form has been suitably amended to carry out the suggestion of the Commissioner, Southern Division.

3.Para. 3(iii) of the P.W.D. office note (p.144ante):-
Condition 5 of the conditions on the reverse of the licenseform already provides that the ferry boat shall not carry any passengers, carts, carrieges, animals or goods with the load line under water. In vieo of this provision, the provision suggested in the P.W.D. office note in conditi n 3 of the license form is not necessary

4. Para. 3(v) of the P.W.D. office note (p.145 ante).-
As the licenses can at present be issued by the Collector only, the word "Collecter" has been added at the end in condition2 This word is used throughout in the various conditions.

5. Para. 3(vi) of the P.W.D. office note (p.145ante).-
The proposed condition for carrying life saving equipment should more appropriately come in after condition 6. A revised draft of the condition has been inserted in the revised draft as condition No. 7.

6. Para. 3(vii) of the P.W.D. office note (p. 145-6 ante)
Condition 13of the original conditions (p. 131 ante)renumbered as condition 14 of the revised draft has been suitably recast.

. Para. 5 of the P.W.D. office note (p.146-147 ante)-
The fee paid for the issue of the license may be mentioned above condition (1) in the license as in the revised form. As regards fees payable for the renewal and issue of a duplicate copy of the license, attention is invited to new conditions and 4.

Sd/- P.N.M.
13-5

Remembrancer of Legal Affairs.

.R. to P.W.D.No. 4415, dated 14th May 1941.

.A.K.

4-4

Office of the R.L.A.

A revised draft notification is sent herewith.

2. The notification will take effect from the date of its publication . The words "from the date of this notification " are, therefore superfluous and have been omitted in the revised draft.

Sd/-

Remembrancer of Legal Affairs.

Sd/-
1-9-41

U.R. to P.L.Q.D., No. 7803, dated 4-9-1941.

S.A.K.
14-4

NOTIFICATION.

Public Works Department.

Bombay Castle, 1941.

The Bombay Ferries Act, 1868.

No. 4579/36.- In exercise of the powers conferred by section 2 of the Bombay ferries Act, 1868(Bom. II of 1868), the Government of Bombay is pleased to declare that the ferry on the Tapti River at Bhusaval (Satara) on the Bhusawal- Yawal Road in the East Khandesh district, shall be deemed to be a public ferry.

By order of the Governor of Bombay,

Secretary to Government.

S.A.K.
14-4

Office of the B.L.A.

The Public Works Department is requested to furnish this office with Public Works Department Government Resolution No. 4350, dated the 10th April ~~1923~~ 1924 and the papers underlying it.

Sd/-
13-11

Remembrancer of Legal Affairs.

U.R. to P.W.D., No. 9804, dated the 14th November 1941.

S.A.K.
14-4

NOTIFICATION.

Public Works Department,

Bombay Castle, December 1941.

No. In exercise of the powers conferred by section 2A of the Bombay Ferries Act, 1868 (Bom, IIof 1868), the Government of Bombay is pleased to amend Government Notification, Public Works Department No. 4350 dated the 10th April 1924 , as follows, namely:-

The Bombay Ferries Act 1868.

In the said notification, the entries relating to Serial No. 21, shall be deleted.

By order of the Governor of Bombay,

Secretary to Government.

S.A.K.

14-4

Office of the R.L.A.

Section 2 of the Bombay Ferries Act, 1868 provides for declaring by notification any ferry to be a public ferry and also for discontinuance of any existing public ferry. Section 2A of the Act provides for declaring by notification any public ferry to be vested in a local body, By Government Notification, Public Works Department, No. 4350 dated 10th April 1924, the ferry over the Tapti river at Bhusaval in the East Khandesh district was vested in the District Local Board, East Khandesh district under section 2A of the Act. As a notification under section 2A can only be issued in respect of a public ferry, it is presumed that a notification declaring the ferry in question to be a public ferry was issued before the above notification of 1924. P.W.D. should verify whether this presumption is correct.

2. It may also be pointed out that section 2A does not expressly empower Government to issue any notification for devesting of any public ferry in Government. There is nothing in the section to indicate that such power is impliedly conferred on Government. On the vesting of a public ferry in a local board, certain vested rights are created in favour of the board and in the absence of an express provision in the Act to the effect, it is doubtful whether Government can without the consent of the board deprive the board of such rights by issuing any fresh notification or by cancelling the original notification declaring the ferry to vest in the local board . It does not appear that the

provisions of section 21 of the Bombay General Clauses Act, 1904 can be availed of for this purpose.

3. The draft notification at page 23 is therefore not in order. R.L.A. was not aware of the notification of 1924 when the above draft ef- was supplied to P.W.D. If it is desired that the ferry in question should hereafter vest in Government, P.W.D. should take steps to obtain the consent of the District Local Board, East Khandesh.

SA

Sd/-

16.12

Remembrancer of Legal Affairs.

U.R. to P.W.D., No. 10878, dated the 17th December 1941.

S.A.K.